

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

LISA SPEARMAN,

Plaintiff,

vs.

STEVE BURDICK,

Defendants.

Case No. 2:12-cv-00960-MMD- GWF

**ORDER**

Application to Proceed in Forma  
Pauperis (#1)

This matter comes before the Court on Plaintiff's Application to Proceed in Forma Pauperis (#1), filed on June 6, 2012. Pursuant to 28 U.S.C. § 1914(a), a filing fee of \$350.00 is required to commence a civil action in federal district court. The court may authorize the commencement of an action without prepayment of fees and costs or security therefor, by a person who submits an affidavit that includes a statement showing the person is unable to pay such costs. 28 U.S.C. § 1915(a)(1). The standard in 28 U.S.C. § 1915(a)(1) for in forma pauperis eligibility is "unable to pay such fees or give security therefor." Determination of what constitutes "unable to pay" or unable to "give security therefor" and, therefore whether to allow a plaintiff to proceed in forma pauperis, is left to the discretion of the presiding judge, based on the information submitted by the plaintiff or plaintiffs. *See, e.g., Fridman v. City of New York*, 195 F.Supp.2d 534, 536 (S.D.N.Y.), *aff'd*, 52 Fed.Appx. 157 (2nd Cir. 2002).

Plaintiff alleges \$800.00 in gross monthly income on her application, less \$230.00 in expenses. Plaintiff therefore has approximately \$570.00 in monthly discretionary income. Based on the information provided, the Court is inclined to deny Plaintiff's application. It appears however that Plaintiff's application may be incomplete as common monthly expenses such as food

1 and rent are not listed, and further Plaintiff fails to indicate the name and address of her employer.  
2 The Court will therefore grant Plaintiff leave to amend her application to allow her the opportunity  
3 to provide more complete information to the Court. Accordingly,

4 **IT IS HEREBY ORDERED** that Plaintiff's Application to Proceed *In Forma Pauperis*  
5 (#1) is **denied** without prejudice.

6 **IT IS FURTHER ORDERED** that Plaintiff shall have until **thirty (30) days** from the date  
7 of this order to either pay the appropriate filing fee of \$350.00, or submit a completed application  
8 and affidavit in support of her request to proceed *in forma pauperis*. Plaintiff's failure to comply  
9 with this order will result in the recommendation that this action be dismissed.

10 DATED this 9th day of July, 2012.

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13 GEORGE FOLEY, JR.  
14 United States Magistrate Judge  
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